

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

FRANK STEMBERK,)	
individually and on behalf of a class,)	
)	
Plaintiff,)	
)	
v.)	08cv3831
)	Judge Shadur
NORTH STAR CAPITAL)	Magistrate Judge Ashman
ACQUISITION, LLC,)	
)	
Defendant.)	

AMENDED COMPLAINT – CLASS ACTION

INTRODUCTION

1. Plaintiff Frank Stemberk brings this action to secure redress against unlawful credit and collection practices engaged in by defendant North Star Capital Acquisition, LLC. Plaintiff alleges violation of the Fair Debt Collection Practices Act, 15 U.S.C. §1692 et seq. (“FDCPA”).

2. The FDCPA broadly prohibits unfair or unconscionable collection methods; conduct which harasses, oppresses or abuses any debtor; and any false, deceptive or misleading statements, in connection with the collection of a debt; it also requires debt collectors to give debtors certain information. 15 U.S.C. §§1692d, 1692e, 1692f and 1692g.

JURISDICTION AND VENUE

3. This Court has jurisdiction under 28 U.S.C. §§1331 and 1337 and 15 U.S.C. §1692k (FDCPA).

4. Venue and personal jurisdiction over defendant in this District is proper because defendant’s conduct impacted plaintiff here, and defendant does business here.

PARTIES

5. Plaintiff Frank Stemberk is an individual who resides in the Northern District of Illinois.

6. Defendant North Star Capital Acquisition LLC is a limited liability company with offices at 220 John Glenn, Ste. 1, Amherst, NY 14228.

7. Defendant North Star Capital Acquisition LLC is engaged in the business of enforcing charged-off consumer debts allegedly purchased from others against consumers.

8. Defendant North Star Capital Acquisition LLC pays almost nothing for the “rights” it acquires, less than ten cents on the dollar.

9. Defendant North Star Capital Acquisition LLC regularly uses the mails and telephones to conduct its business.

10. Defendant North Star Capital Acquisition LLC has been the plaintiff in more than 100 Illinois lawsuits seeking to collect consumer debts.

11. Because the purported obligations were originally owed to other entities and were charged off prior to its involvement with them, North Star Capital Acquisition LLC is a “debt collector” as defined in the FDCPA.

FACTS

12. North Star Capital Acquisition, LLC obtains no or virtually no documentation substantiating that the purported debtors actually owe any money to anyone. If it wanted such documentation, North Star Capital Acquisition, LLC would have to pay more.

13. To make up for this self-created deficiency, North Star Capital Acquisition, LLC resorts to fraud and misrepresentation.

14. Attached as Exhibit A is a document which defendant North Star Capital

Acquisition, LLC regularly attaches to collection complaints filed in the Circuit Court of Cook County.

15. Exhibit A is a standard form document, filled out in a standardized manner.

16. The particular example in Exhibit A was attached to a collection complaint which defendant North Star Capital Acquisition, LLC filed against plaintiff Frank Stemberk on or about March 24, 2008.

17. On information and belief an example of the document was attached to every collection complaint North Star Capital Acquisition, LLC filed in the Circuit Court of Cook County for a period of months.

18. Exhibit A is devised to appear to be a statement sent to the putative debtor in the ordinary course of business. It states “You may avoid additional finance charges if you pay this amount by the due date.”

19. In truth and in fact, Exhibit A is not sent to putative debtors, except as an exhibit to a collection complaint.

20. Plaintiff never received Exhibit A by mail.

21. The purpose and effect of Exhibit A is to falsely represent that the document was sent to the putative debtor and not objected to.

22. Exhibit A was attached to a complaint alleging that “Due demand has been made on the Defendant(s) to pay this amount and the Defendant(s) have failed to do so.”

COUNT I – FDCPA – CLASS CLAIM

23. Plaintiff incorporates paragraphs 1-22.

24. Exhibit A violates the FDCPA as constituting a false representation or

means in connection with the collection of any debt (§1692e), a false representation of the “character” of any debt (§1692e(2)(A)), and use of any false representation to collect or attempt to collect any debt or to obtain information concerning a consumer (§1692e(10)).

CLASS ALLEGATIONS

25. Plaintiff brings this claim on behalf of a class, consisting of (a) all natural persons with Illinois addresses (b) with respect to whom defendant North Star Capital Acquisition, LLC filed a lawsuit (c) attaching a document in the form represented by Exhibit A (d) which document was not sent to the addressee prior to the filing of suit (e) where the lawsuit was filed or served during a period beginning July 3, 2007 (one year prior to the filing of this action) and ending July 23, 2008 (20 days after the filing of this action).

26. The class is so numerous that joinder is impracticable.

27. There are more than 100 natural persons with Illinois addresses with respect to whom defendant North Star Capital Acquisition, LLC filed a lawsuit, attaching a document in the form represented by Exhibit A, which document was not sent to the addressee prior to the filing of suit, where the lawsuit was filed or served during a period beginning July 3, 2007 and ending July 23, 2007.

28. There are questions of law and fact common to the members of the class, which common questions predominate over any questions that affect only individual class members. The predominant common question is whether Exhibit A violates the FDCPA.

29. Plaintiff’s claim is typical of the claims of the class members. All are based on the same factual and legal theories.

30. Plaintiff will fairly and adequately represent the interests of the class members. Plaintiff has retained counsel experienced in consumer credit and debt collection

abuse cases.

31. A class action is superior to other alternative methods of adjudicating this dispute. Individual cases are not economically feasible.

WHEREFORE, plaintiff requests that the Court enter judgment in favor of plaintiff and the class and against defendant for:

- a. Statutory damages;
- b. Attorney's fees, litigation expenses and costs of suit;
- c. Such other or further relief as the Court deems proper.

/s/Daniel A. Edelman
Daniel A. Edelman

Daniel A. Edelman
Cathleen M. Combs
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(312) 419-0379 (FAX)

JURY DEMAND

Plaintiff demands trial by jury.

/s/Daniel A. Edelman
Daniel A. Edelman

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NOTICE OF LIEN

Please be advised that we claim a lien upon any recovery herein for 1/3 or such amount as a court awards. All rights relating to attorney's fees have been assigned to counsel.

/s/Daniel A. Edelman
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NORTH STAR CAPITAL ACQUISITION, LLC

7-61036

Charge-Off Statement

ACCOUNT NUMBER	PAYMENT DUE DATE	PAST DUE AMOUNT	MINIMUM PAYMENT	NEW BALANCE	AMOUNT OF PAYMENT ENCLOSED
72115740751317	09/17/2006	2961.68		2961.68	\$

FRANK STEMBERK
7847 OGDEN AVE
LYONS, IL 60534-1312

220 JOHN GLENN DRIVE
SUITE ONE
AMHERST, NY 14228

ACCOUNT NUMBER		CREDIT LINE	CREDIT AVAILABLE	DAYS IN BILLING CYCLE	BILL DATE	PAYMENT DUE DATE	MINIMUM PAYMENT DUE
72115740751317		2800.00			09/07/2006	09/17/2006	
DATE OF		REFERENCE NUMBER		DESCRIPTION OF TRANSACTIONS			AMOUNT
TRANS	POST						
0000	0000	OVERLIMIT FEE LATE CHARGE - MIN PYMT NOT RECD BY DATE					0.00
0000	0000						
		**** FINANCE CHARGE CURRENT PURCHASE					

PREVIOUS BALANCE	PAYMENTS	CREDITS	NEW PURCHASES AND ADVANCES	DEBIT ADJUSTMENTS	FINANCE CHARGES	OVERLINE AMOUNT	NEW BALANCE
2961.68		0.00	0.00	0.00	0.00		2961.68

AN AMOUNT FOLLOWED BY A MINUS SIGN(-) IS A CREDIT BALANCE UNLESS OTHERWISE INDICATED

YOU MAY AVOID
ADDITIONAL FINANCE
CHARGES
IF YOU PAY THIS AMOUNT
BY THE DUE DATE

\$

TYPES OF CREDIT TO WHICH RATES APPLY	FINANCE CHARGE BALANCES	DAILY PERIODIC RATE	NOMINAL ANNUAL PERCENTAGE RATES	ANNUAL PERCENTAGE RATES
PURCHASES		.01644 %	%	6.00 %
ADVANCES		%	%	%

PLAINTIFF'S
EXHIBIT

A